

Appl. No. 10/017,772
Att. Docket No. 10191/1924
Reply To Office Action of 06/03/03

REMARKS

Claims 12 to 20 have been added, and therefore claims 1 to 9 and 12 to 20 are now being considered (since claims 10 and 11 were previously restricted and therefore withdrawn from present consideration).

With respect to paragraph three (3) of the Office Action, Applicants thank the Examiner for indicating that claims 7 contain allowable subject matter and that these claims would be allowable if rewritten to include the features of their base claims. The objections are traversed since the primary reference is not prior art, as explained below. It is therefore respectfully requested that the objections be withdrawn.

With respect to paragraph one (1), claim 1 was rejected under 35 U.S.C. § 103(a) as unpatentable over Benzel, PCT International Patent Application No. WO 03/012420, in view of Wesling et al., U.S. Patent No. 5,852,245.

As regards the primary Benzel reference, since it only published on February 13, 2003 (based on an International Application filed on July 6, 2002), it is plainly not prior art under either 102(a) or 102(b). It is also not prior art under 102(e)(1) or 102(e)(2), since the language of those provisions does not apply. (It is noted that even if 102(e) was the only provision to apply, the reference would not be prior art in view of 103(c) since both the present application and the Benzel reference were owned by or subject to an obligation of assignment to Robert Bosch GmbH).

To the extent that the Examiner insists on relying on the Benzel reference, it is requested that the Examiner explain how that reference is prior art and the applicable provision under Section 102 -- which it is not since there is no applicable provision. It is noted that the Notice of References Cited lists the "Date" of Benzel as "07-2001". This date, however, is not a prior art date under Sections 102/103, it is only the date (7/25/2001) of the underlying German priority application DE 101 36 164.5. It may be that the Examiner is misreading 102(e)(1). It is noted, for example, that Benzel was not published in the English language.

As the Office Action essentially admits, the secondary reference alone does not render claim 1 unpatentable. Accordingly, the obviousness rejection of claim 1 is traversed.

With respect to paragraph two (2), claim 2 was rejected under 35 U.S.C. § 103(a) as unpatentable over Benzel, PCT International Patent Application No. WO 03/012420, in view

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of Wesling et al., U.S. Patent No. 5,852,245, as applied to claim 1, and in further view of Muchow et al., U.S. Patent No. 6,076,404.

As explained above, the primary Benzel reference is not prior art, so that claim 1 is allowable, as is its dependent claim 2. As the Office Action essentially admits, the secondary and third level references alone do not render claim 2 unpatentable. Accordingly, the obviousness rejection of claim 2 is traversed.

With respect to paragraph three (3), claims 3 to 5 was rejected under 35 U.S.C. § 103(a) as unpatentable over Benzel, PCT International Patent Application No. WO 03/012420, in view of Wesling et al., U.S. Patent No. 5,852,245, as applied to claim 1, and in further view of Chi et al., U.S. Patent No. 5,714,791.

As explained above, the primary Benzel reference is not prior art, so that claim 1 is allowable, as are its dependent claims 3 to 5. As the Office Action essentially admits, the secondary and third level references alone do not render claims 3 to 5 unpatentable. Accordingly, the obviousness rejections of claims 3 to 5 are traversed.

It is therefore respectfully submitted that claims 1 to 9 are allowable.

New claims 12 to 20 do not add any new matter and are supported in the specification. New claim 12 includes features like those of claims 1 and 6, and is therefore allowable for essentially the same reasons as claims 1 and 6, as are its dependent claims 13 to 17. New claim 18 includes features like those of claims 1, 7, and at least one of the features of claims 2 to 5, so that claim 18 is similarly allowable, as are its dependent claims 19 and 20 (which include features like those of claims 8 and 9).

Accordingly, claims 1 to 9 and 12 to 20 are allowable.

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CONCLUSION

In view of the foregoing, it is believed that the objections and rejections have been obviated, and that currently considered claims 1 to 9 and 12 to 20 are allowable. It is therefore respectfully requested that the objections and rejections be withdrawn, and that the present application issue as early as possible.

Respectfully submitted,
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